

SETTLEMENT AGREEMENT AND RELEASE

RELEASORS: RED MOUNTAIN RETAIL GROUP, INC., and BOZEMAN SHOPPING CENTER, LLC, and the Releasee mentioned immediately below.

RELEASEE: CITY OF BOZEMAN, MONTANA, and the Releasors mentioned immediately above.

DATE OF CASUALTY: November, 2007 through March, 2010.

DESCRIPTION OF EVENT: Claims resulting from and related to the imposition by the Releasee of restrictions on change of use, occupancy, and improvements to the Bozeman Shopping Center, commonly referred to as the Hastings Shopping Center, in Bozeman, Montana, as well as the Releasee's issuance and recording of a Notice of Violation for the Bozeman Shopping Center, all as set forth in the complaint filed in the civil cause mentioned below and dated May 12, 2010, and each and every one of the counts, causes of action, and claims for relief set forth in that complaint.

CIVIL CAUSE: DV-10-528BX (Montana Eighteenth Judicial District Court, Gallatin County).

1. RELEASE AND CONSIDERATION

The undersigned Releasors, in consideration for the promises and agreements set forth herein, fully and forever release and discharge Releasee, Releasee's successors, assigns, agents, insurers, employees, volunteers, board members and attorneys from any and all actions, claims, causes of action, demands, or expenses for damages or losses, whether asserted or unasserted, known or unknown, foreseen or unforeseen, arising out of the described event. The Releasors also specifically release and discharge any other person or entity, whether named as a Releasee above or not, from any and all actions, claims, causes of action, demands, or expenses for damages or losses, whether asserted or unasserted, known or unknown, foreseen or unforeseen, arising out of the described event. This Settlement Agreement and Release shall be construed as a mutual release of all claims of whatsoever nature between and among the Releasors and the Releasee.

As consideration for the release set forth above, and for the other promises and agreements set forth herein, the Releasee shall promptly take such steps as are necessary to rescind, cancel or nullify the Notice of Violation recorded in the office of the Gallatin County, Montana, Clerk and Recorder by the Releasee on or about August 22, 2008. Further, the Releasee shall permit occupancy of any existing and/or future vacant retail space at the shopping center in question, for any other retail use, including but not limited to retail sales of used merchandise by an organization such as

Goodwill Industries or the Salvation Army. In any event, any use, occupancy, signage, improvements, or other activity at the shopping center shall be in compliance with applicable Bozeman city laws, ordinances, rules and regulations. The parties understand and agree that the final site plan for Building A of the shopping center, approved by the Releasee on or about October 1, 2004, is hereby declared to be null and void, such approval having expired by operation of city ordinances and regulations.

2. FUTURE DAMAGES

Inasmuch as the damages and losses resulting from the events described herein may not be fully known and may be more numerous or greater than is now understood or expected, the Releasors agree, as a further consideration of this agreement, that this Release applies to any and all damages and losses resulting from the event described herein, even though now unanticipated, unexpected and unknown, as well as any and all damages and losses which have already developed and which are now known or anticipated.

3. NO ADMISSION OF LIABILITY

It is understood that the above-mentioned consideration is accepted as the sole consideration for full satisfaction and accord to compromise a disputed claim, and that neither the agreements made by the Releasee nor the negotiations for settlement shall be considered as an admission of liability.

4. NO ADDITIONAL CLAIMS

Releasors represent that no additional claims are contemplated against any other party potentially liable for the losses and damages for which this Release is given. In the event any additional claim is made which directly or indirectly results in additional liability exposure to Releasee for the losses and damages for which this Release is given, Releasors covenant and agree to indemnify and save Releasee harmless from all such claims and demands, including reasonable attorneys' fees and all other expenses necessarily incurred.

5. STIPULATION FOR DISMISSAL WITH PREJUDICE

As a result of this settlement among the parties, they stipulate and agree to dismiss with prejudice the above-described civil action, within fourteen days after this agreement is fully executed. The parties shall each pay their respective costs and attorneys' fees.

6. ACKNOWLEDGMENT OF RELEASORS

Releasors hereby acknowledge that they are knowingly executing this Settlement Agreement and Release voluntarily and of their own free will, that they are not under any duress or undue influence to execute this Settlement Agreement and Release, and that they fully understand the terms of this Settlement Agreement and Release. Further, Releasors hereby acknowledge that they have fully reviewed and read this Settlement Agreement and Release, and have discussed its terms and legal effect with their legal counsel prior to its execution.

7. BINDING EFFECT

This Settlement Agreement and Release shall be binding upon Releasors' heirs, successors, personal representatives, assigns, and insurers.

8. SEVERABILITY

Nothing contained in this Settlement Agreement and Release is intended to violate any applicable law, rule, or regulation. If any part of this Settlement Agreement and Release is construed to be in violation of a federal, state, or local law, rule, or regulation by the highest court to which the matter is appealed by any of the parties, then that part shall be null and void, but the balance of the provisions of this Settlement Agreement and Release shall remain in full force and effect.

9. ATTORNEY'S FEES

In case suit or action is instituted to enforce compliance with any of the terms, covenants or conditions of this Agreement, there shall be paid to the prevailing party in such suit or action by the other party, the prevailing party's costs and such further sums as the Court may adjudge as reasonable attorney's fees; and in the event any appeal is taken from any judgment or decree in such suit or action, the prevailing party in such appeal is to likewise recover from the other party costs and reasonable attorney's fees on such appeal.

10. ENTIRE AGREEMENT

This Settlement Agreement and Release constitutes the entire agreement between the parties concerning the subject matters thereof, and there are no other written or oral agreements, understandings, or arrangements between the parties regarding the subject matter of this Settlement Agreement and Release.

11. FACSIMILE VERSION

A facsimile or other electronically transmitted version of this agreement, bearing properly notarized signatures as set forth below, shall have the same force and effect as the original.

DATED this _____ day of _____, 2011.

CAUTION: READ BEFORE SIGNING!

RED MOUNTAIN RETAIL GROUP, INC.

Its: _____

STATE OF MONTANA)
 :SS
County of Gallatin)

On this _____ day of _____, 2011, before me, a notary public of the State of Montana, personally appeared _____, known to me to be the person named in the foregoing Release, and acknowledged to me that he executed the same as his free act and deed on behalf of Red Mountain Retail Group, Inc., for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year in this certificate first above written.

(SEAL)

Notary Public for the State of Montana
Printed Name: _____
Residing at: _____
My commission expires: _____

APPROVED BY:

Attorney for Red Mountain Retail Group, Inc.

DATED this ____ day of _____, 2011.

CAUTION: READ BEFORE SIGNING!

BOZEMAN SHOPPING CENTER, LLC

Its: _____

STATE OF MONTANA)
 :ss
County of Gallatin)

On this ____ day of _____, 2011, before me, a notary public of the State of Montana, personally appeared _____, known to me to be the person named in the foregoing Release, and acknowledged to me that he executed the same as his free act and deed on behalf of Bozeman Shopping Center, LLC, for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year in this certificate first above written.

(SEAL)

Notary Public for the State of Montana
Printed Name: _____
Residing at: _____
My commission expires: _____

APPROVED BY:

Attorney for Bozeman Shopping Center, LLC

DATED this _____ day of _____, 2011.

CAUTION: READ BEFORE SIGNING!

JEFFREY KRAUSS, as
Mayor of the City of Bozeman, Montana

STATE OF MONTANA)
 :SS
County of Gallatin)

On this _____ day of _____, 2011, before me, a notary public of the State of Montana, personally appeared Jeffrey Krauss, known to me to be the person named in the foregoing Release, and acknowledged to me that he executed the same as his free act and deed on behalf of the City of Bozeman, for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year in this certificate first above written.

(SEAL)

Notary Public for the State of Montana
Printed Name: _____
Residing at: _____
My commission expires: _____

APPROVED BY:

Attorney for the City of Bozeman, Montana